

City of Piedmont  
COUNCIL AGENDA REPORT

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DATE: February 16, 2016

TO: Mayor and Council

FROM: Paul Benoit, City Administrator

SUBJECT: Consideration of Side Letters to the Memorandum of Understanding of Bargaining Groups and Employment Resolution for Unrepresented Groups for the Donation of Sick Leave to Firefighter David Abernethy

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RECOMMENDATION

Approve the Side Letters to the Memorandum of Understanding of Bargaining Groups and the Employment Resolution for Unrepresented Groups for the Donation of Sick Leave to Firefighter David Abernethy.

BACKGROUND

On January 19, 2016, the City Council directed staff to pursue amendments to MOUs and Employment Resolutions in order to allow employees the opportunity to donate sick leave to Firefighter David Abernethy (Attachment A). The Abernethy family is coping with the devastating illness of their infant daughter, and additional sick leave accrual is needed in order for David to remain off work and care for his family.

The City worked with labor attorney, Janae Novotny, to draft the required side letters and Resolution, and met with the respective groups who all expressed their full support of the amendment. The signed agreements are attached to this report.

By: Stacy A. Jennings, Administrative Services Technician, II

Attachments:

Attachment A – 1/19/16 Staff Report, Direction to Staff Regarding Catastrophic Sick Leave Donation for Firefighter David Abernethy

Attachment B – Side Letter, Piedmont Police Officers Association

Attachment C – Side Letter, SEIU Public Works Unit

Attachment D – Side Letter, SEIU General Unit

Attachment E – Resolution, Unrepresented Groups

City of Piedmont  
COUNCIL AGENDA REPORT

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DATE: January 19, 2016

TO: Mayor and Council

FROM: Paul Benoit, City Administrator

SUBJECT: Direction to Staff Regarding Catastrophic Sick Leave Donation for Firefighter David Abernethy

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RECOMMENDATION

By motion, direct staff to pursue amendments to the Memoranda of Understanding of Bargaining Groups and Employment Resolutions for unrepresented groups to allow for the donation of sick leave to Firefighter David Abernethy.

BACKGROUND

Firefighter/Paramedic David Abernethy has been with the City of Piedmont since November 2014. David and his wife Debbie have three young children. Recently they received devastating information that their infant daughter, Aubrey, is very seriously ill. A recent biopsy indicated that she has a brainstem tumor that medically is referred to as "a high-grade Embryonal Tumor with Multilayer Rosettes (ETMR)". This is a very rare tumor which grows in children under the age of 4 with only 300 total cases reported in the US. Because this is a rare tumor, the treatment options are limited with no clinical trials, studies, or research being performed in the US or Canada to help. Aubrey's treatment team has reached out to Canada, Europe, Boston and St. Jude Children's Research Hospital, to name a few. As of right now, the best shot at fighting this tumor is with very aggressive chemotherapy. With this chemotherapy treatment comes multiple side effects and multiple hospital admissions. Aubrey was recently admitted to UCSF for a Broviac, which is a central line catheter that is implanted surgically. Aubrey's first cycle of chemotherapy has started and will typically occur every 3 weeks. With each cycle of chemotherapy, Aubrey will be admitted to UCSF for 4-5 days, provided her symptoms are not so severe as to require her stay to be extended. The treatment teams have been straight forward with the Abernethy family, and informed them that this type of chemotherapy is a rough road and that, with the type of tumor Aubrey has, her prognosis is poor.

Being a new employee and attending to his family and daughter through this time, David has exhausted all of his paid leave. Individual firefighters have, as allowed under the "Catastrophic Leave Program" detailed in Section 12.4 of their MOU between the City and the Piedmont Firefighters Association (see Exhibit A), donated portions of their sick leave to allow David the ability to focus all of his attention on his family. The Firefighters Association has requested

consideration of an amendment to the MOUs and employment resolutions of other bargaining groups and individual employees to allow employees outside of the Fire Department to donate sick leave to David under similar provisions as are detailed in Section 12.4 of their MOU. The Association, on their own volition, has contacted the other represented bargaining groups and has informed me that the groups are supportive.

Following authorization from the Council, the next step in the process is to prepare the required documents to amend the relevant MOU provisions and various employment resolutions. We will then meet with the employee groups to review the documents with a goal of returning to Council for final approval next month.

Given the unique and devastating circumstances affecting the Abernethy family, I support the request and, with authorization of the City Council, will work with our labor attorney, Janae Novotny, to draft the required Council action items to implement the requested changes. Such changes would be specific to voluntary donations to Firefighter Abernethy.

**Excerpt from the Memorandum of Understanding Between  
the City of Piedmont and the Piedmont Firefighters, Local 2683, IAFF**

**12.4 Catastrophic Leave Program**

Permanent employees represented by the bargaining unit may be eligible to receive donations of paid leave, to be included in the recipient employee's sick leave balance if he/she has suffered a catastrophic illness or injury which is defined as a serious medical condition considered to be terminal, a major physical impairment, or a family medical emergency (defined as a catastrophic illness or injury of a spouse, registered domestic partner, child or parent residing in the employee's household), subject to the following conditions:

- The recipient employee, recipient employee's family, or other person designated in writing by the recipient must submit a request to the City Administrator or designee.
- The recipient employee is not eligible so long as he/she has paid leave time available; however, the request may be initiated prior to the anticipated date that all leave balances will be exhausted.
- The recipient employee must provide a medical verification which meets the criteria above and a prognosis.
- Donations may be made in whole hour increments, and are irrevocable. The donor employee may donate vacation up to any amount, but the City may require that the donor employee retain 40 hours of vacation leave. Sick leave may be donated up to 24 hours in whole hour increments. Donations may be made from any individual employed by the Piedmont Fire Department.
- Time donated will be converted from the type of time donated to sick leave and credited to the recipient employee's sick leave balance on an hour-for-hour basis and shall be paid at the rate of pay of the recipient employee.
- Time donated in any pay period may be used in the following pay periods. No retroactive donations will be permitted.
- Eligibility for this program requires recommendation by the Fire Chief and approval by the City Administrator.

**AMENDMENT TO A MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
CITY OF PIEDMONT  
AND THE  
PIEDMONT POLICE OFFICERS ASSOCIATION**

\_\_\_\_\_, 2016

The City of Piedmont ("City") and the Piedmont Police Officers Association are parties to a Memorandum of Understanding ("MOU") regarding terms and conditions of employment of the City employees in the Police Officers Unit. The term of the MOU is July 1, 2013 through June 30, 2017.

The City and the Union acknowledge the extraordinary and difficult personal circumstances faced by City of Piedmont Firefighter/Paramedic David Abernethy and his family. Due to the rare and very serious illness of one of his children, Firefighter Abernethy has exhausted all of his paid leave of absence and requires additional paid leave time to care for his family. The City and the Union are aware that employees throughout the various City departments have expressed a desire to support Firefighter Abernethy and his family with voluntary sick leave donations to Firefighter Abernethy through the Catastrophic Leave Program.

The Catastrophic Leave Program described in Section 11.4 of the Parties' MOU limits bargaining unit members' ability to donate and receive sick leave donations to City employees of the Piedmont Police Department.

The City and the Union mutually desire to amend Section 11.4, Catastrophic Leave Program, of the Parties' MOU for the sole purpose of providing bargaining unit members the opportunity to voluntarily donate sick leave to Firefighter Abernethy.

To achieve this purpose, the City and the Union mutually agree as follows:

- Notwithstanding any provision of Section 11.4, Catastrophic Leave Program, of the Memorandum of Understanding between the City and the Union that limits the eligibility to receive or make sick leave donations to Piedmont Police Department employees, the Parties agree that bargaining unit employees may voluntarily donate sick leave to Firefighter/Paramedic David Abernethy during the term of this Amendment.
- No other provisions of Section 11.4 are modified by this Amendment, and any bargaining unit member donations to the Catastrophic Leave Program for Firefighter Abernethy are subject to all other requirements of Section 11.4.
- Any bargaining unit member donations to the Catastrophic Leave Program for Firefighter Abernethy are strictly voluntary.

- This Amendment shall expire with the expiration of the MOU on June 30, 2017, and shall not continue in effect as the status quo for any purpose unless the Parties mutually agree in writing to extend the term of this Amendment.
- This Amendment shall not establish a past practice and shall not be cited by either the City or the Union as a past practice regarding other proposed modifications to the Catastrophic Leave Program. Neither shall this Amendment establish a past practice or be cited by either the City or the Union as a past practice regarding proposed modifications to any other provision of the MOU during the term of the MOU. This Amendment cannot be used as evidence in any proceeding except to enforce this Amendment.

Agreed and entered into on \_\_\_\_\_, 2016

PIEDMONT POLICE OFFICERS  
ASSOCIATION

CITY OF PIEDMONT

By           Nolet Jane 21 Feb 16          

By \_\_\_\_\_  
Margaret Fujioka  
Mayor

By \_\_\_\_\_

By \_\_\_\_\_  
Paul Benoit  
City Administrator

By \_\_\_\_\_

By \_\_\_\_\_  
John Tulloch  
City Clerk

**AMENDMENT TO A MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
CITY OF PIEDMONT  
AND  
SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 1021  
(PUBLIC WORKS UNIT)**

\_\_\_\_\_, 2016

The City of Piedmont ("City") and Service Employees International Union, Local 1021, Public Works Unit ("Union") are parties to a Memorandum of Understanding ("MOU") regarding terms and conditions of employment of the City employees in the General Employees Unit. The term of the MOU is January 1, 2014 through June 30, 2017.

The City and the Union acknowledge the extraordinary and difficult personal circumstances faced by City of Piedmont Firefighter/Paramedic David Abernathy and his family. Due to the rare and very serious illness of one of his children, Firefighter Abernathy has exhausted all of his paid leave of absence and requires additional paid leave time to care for his family. The City and the Union are aware that employees throughout the various City departments have expressed a desire to support Firefighter Abernathy and his family with voluntary sick leave donations to Firefighter Abernathy through the Catastrophic Leave Program.

The Catastrophic Leave Program described in Section 11.5 of the Parties' MOU limits bargaining unit members' ability to donate and receive sick leave donations to City employees of the Piedmont Public Works Department.

The City and the Union mutually desire to amend Section 11.5, Catastrophic Leave Program, of the Parties' MOU for the sole purpose of providing bargaining unit members the opportunity to voluntarily donate sick leave to Firefighter Abernathy.

To achieve this purpose, the City and the Union mutually agree as follows:

- Notwithstanding any provision of Section 11.5, Catastrophic Leave Program, of the Memorandum of Understanding between the City and the Union that limits the eligibility to receive or make sick leave donations to Piedmont Public Works Department employees, the Parties agree that bargaining unit employees may voluntarily donate sick leave to Firefighter/Paramedic David Abernathy during the term of this Amendment.
- No other provisions of Section 11.5 are modified by this Amendment, and any bargaining unit member donations to the Catastrophic Leave Program for Firefighter Abernathy are subject to all other requirements of Section 11.5.

- Any bargaining unit member donations to the Catastrophic Leave Program for Firefighter Abernathy are strictly voluntary.
- This Amendment shall expire with the expiration of the MOU on June 30, 2017, and shall not continue in effect as the status quo for any purpose unless the Parties mutually agree in writing to extend the term of this Amendment.
- This Amendment shall not establish a past practice and shall not be cited by either the City or the Union as a past practice regarding other proposed modifications to the Catastrophic Leave Program. Neither shall this Amendment establish a past practice or be cited by either the City or the Union as a past practice regarding proposed modifications to any other provision of the MOU during the term of the MOU. This Amendment cannot be used as evidence in any proceeding except to enforce this Amendment.

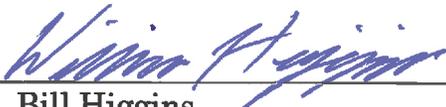
Agreed and entered into on \_\_\_\_\_, 2016

SERIVCE EMPLOYEES  
INTERNATIONAL UNION  
LOCAL 1021 (PUBLIC WORKS UNIT)

CITY OF PIEDMONT

By   
Ray Haguian

By \_\_\_\_\_  
Margaret Fujioka  
Mayor

By   
Bill Higgins

By \_\_\_\_\_  
Paul Benoit  
City Administrator

By \_\_\_\_\_  
John Tulloch  
City Clerk

**AMENDMENT TO A MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
CITY OF PIEDMONT  
AND  
SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 1021  
(GENERAL EMPLOYEES UNIT)**

\_\_\_\_\_, 2016

The City of Piedmont ("City") and Service Employees International Union, Local 1021, General Employees Unit ("Union") are parties to a Memorandum of Understanding ("MOU") regarding terms and conditions of employment of the City employees in the General Employees Unit. The term of the MOU is January 1, 2014 through June 30, 2017.

The City and the Union acknowledge the extraordinary and difficult personal circumstances faced by City of Piedmont Firefighter/Paramedic David Abernathy and his family. Due to the rare and very serious illness of one of his children, Firefighter Abernathy has exhausted all of his paid leave of absence and requires additional paid leave time to care for his family. The City and the Union are aware that employees throughout the various City departments have expressed a desire to support Firefighter Abernathy and his family with voluntary sick leave donations to Firefighter Abernathy through the Catastrophic Leave Program.

The Catastrophic Leave Program described in Section 11.4 of the Parties' MOU limits bargaining unit members' ability to donate and receive sick leave donations to City employees of the Piedmont Police Department.

The City and the Union mutually desire to amend Section 11.4, Catastrophic Leave Program, of the Parties' MOU for the sole purpose of providing bargaining unit members the opportunity to voluntarily donate sick leave to Firefighter Abernathy.

To achieve this purpose, the City and the Union mutually agree as follows:

- Notwithstanding any provision of Section 11.4, Catastrophic Leave Program, of the Memorandum of Understanding between the City and the Union that limits the eligibility to receive or make sick leave donations to Piedmont Police Department employees, the Parties agree that bargaining unit employees may voluntarily donate sick leave to Firefighter/Paramedic David Abernathy during the term of this Amendment.
- No other provisions of Section 11.4 are modified by this Amendment, and any bargaining unit member donations to the Catastrophic Leave Program for Firefighter Abernathy are subject to all other requirements of Section 11.4.

- Any bargaining unit member donations to the Catastrophic Leave Program for Firefighter Abernathy are strictly voluntary.
- This Amendment shall expire with the expiration of the MOU on June 30, 2017, and shall not continue in effect as the status quo for any purpose unless the Parties mutually agree in writing to extend the term of this Amendment.
- This Amendment shall not establish a past practice and shall not be cited by either the City or the Union as a past practice regarding other proposed modifications to the Catastrophic Leave Program. Neither shall this Amendment establish a past practice or be cited by either the City or the Union as a past practice regarding proposed modifications to any other provision of the MOU during the term of the MOU. This Amendment cannot be used as evidence in any proceeding except to enforce this Amendment.

Agreed and entered into on \_\_\_\_\_, 2016

SERVIC EMPLOYEES  
INTERNATIONAL UNION  
LOCAL 1021 (GENERAL  
EMPLOYEES UNIT)

CITY OF PIEDMONT

By *Russ M. Mohaff*

By \_\_\_\_\_  
Margaret Fujioka  
Mayor

By \_\_\_\_\_

By \_\_\_\_\_  
Paul Benoit  
City Administrator

By \_\_\_\_\_

By \_\_\_\_\_  
John Tulloch  
City Clerk

**Resolution No. \_\_\_-16  
Of the City of Piedmont  
Approving a Catastrophic Leave Program**

WHEREAS, the City Council acknowledges the extraordinary and difficult personal circumstances faced by City of Piedmont Firefighter/Paramedic David Abernathy and his family, such that, due to the rare and very serious illness of one of his children, Firefighter Abernathy has exhausted all of his paid leaves of absence and needs additional paid leave time to care for his family; and

WHEREAS, Employees throughout the various City departments have expressed a desire to support Firefighter Abernathy and his family with voluntary accrued leave donations to Firefighter Abernathy; and

WHEREAS, not all City employees have access to a catastrophic leave program under the applicable Memorandum of Understanding or Resolution regarding the terms of their employment; and

WHEREAS, Section 7.4 Catastrophic Leave Program of Resolution No. 104-13 setting for the terms and conditions of employment of confidential employees is limited to confidential employees; and

WHEREAS, Firefighter Abernathy has met all of the requirements to be an eligible recipient under the catastrophic leave program established in the current memoranda of understanding with the formally recognized employee organizations representing City bargaining units of represented employees, as amended;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Piedmont hereby resolve, declare, determine and order as follows:

SECTION 1. A catastrophic leave program is established to permit any unrepresented City employee who is not covered by a Memorandum of Understanding or Council Resolution providing a Catastrophic Leave Program to donate accrued leave to Firefighter Abernathy under the terms and conditions set forth in this Resolution.

SECTION 2. Any donation of accrued leave shall be strictly voluntary.

SECTION 3. Accrued leave donations may be made in whole hour increments and donations are irrevocable.

SECTION 4. A donor employee may donate up to 24 hours of accrued sick leave.

SECTION 5. Donated accrued leave time will be converted from the type of leave donated to sick leave and credited to Firefighter Abernathy's sick leave balance on an hour-for-hour basis and shall be paid at the rate of pay of the recipient employee.

SECTION 6. Accrued leave time donated in any pay period may be used by the recipient in the following pay periods. Retroactive leave donations are not permitted.

SECTION 7. Section 7.4 Catastrophic Leave Program of Resolution No. 104-13 setting for the terms and conditions of employment of confidential employees is amended to permit accrued leave donations to Firefighter Abernathy under the terms and conditions set forth in this Resolution. No other provision of Resolution No. 104-13 is amended by this Resolution.